



DEPARTMENT OF TRANSPORTATION

Billing Code 4910-EX-P

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016 -0167

**Parts and Accessories Necessary for Safe Operation, Lamps and Reflective Devices;
Application for an Exemption from STEMCO LP.**

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on an application for exemption from STEMCO LP (STEMCO) to allow motor carriers to operate commercial motor vehicles (CMVs) that are equipped with STEMCO's TrailerTail® aerodynamic device with rear identification lamps and rear clearance lamps that are mounted lower than currently permitted by the Agency's regulations. The Federal Motor Carrier Safety Regulations (FMCSRs) require rear identification lamps and rear clearance lamps to be located "as close as practicable to the top of the vehicle." While the TrailerTail® aerodynamic device is currently mounted slightly below the roof of the vehicle, STEMCO states that this offset prevents the device from delivering the maximum available fuel economy benefit as opposed to mounting it flush with the top of the vehicle which may block the visibility of the rear identification lamps and rear clearance lamps. STEMCO believes that locating the rear identification lamps and rear clearance lamps lower on the vehicle, on a horizontal plane with other required lamps (stop, turn, and tail lamps) as is done on a flatbed trailer or an intermodal chassis, will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. STEMCO is

requesting the temporary exemption in advance of petitioning FMCSA to conduct a rulemaking to amend 49 CFR 393.11.

DATES: Comments must be received on or before [*insert date 30 days after publication*].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2016-0167 using any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- Hand Delivery: Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12–140, DOT Building, 1200

New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> Web site as well as the DOT’s <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Cestero, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC–PSV, (202) 366–5541; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA– 21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety

Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

STEMCO Application for Exemption

STEMCO, on behalf of motor carriers utilizing its TrailerTail® aerodynamic devices, applied for an exemption from 49 CFR 393.11 to allow rear identification lamps and rear clearance lamps to be mounted lower than currently permitted by the Agency's regulations. A copy of the application is included in the docket referenced at the beginning of this notice.

Table 1 of § 393.11, “Required lamps and reflectors on commercial motor vehicles,” specifies the requirements for lamps, reflective devices and associated equipment by the type of CMV. All CMVs manufactured on or after December 25, 1968, must, at a minimum, meet the applicable requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, “Lamps, reflective devices, and associated equipment,” in effect at the time of manufacture of the vehicle. Rear identification lamps must be mounted as close as practicable to the top of the vehicle. One lamp must be as close as practicable to the vertical centerline and one on each side of the center lamp with the lamp centers spaced not less than 6 inches or more than 12 inches apart, and all on the same level. One rear clearance lamp must be located on each side of the vertical centerline of the vehicle to indicate overall width, both of which must be on the same level and as high as practicable.

The U.S. Environmental Protection Agency (EPA) and the Department of Transportation’s National Highway Traffic Safety Administration (NHTSA) have jointly proposed a national program that would establish the next phase of greenhouse gas (GHG) emissions and fuel efficiency standards for medium- and heavy-duty vehicles. This “Phase 2 program” would significantly reduce carbon emissions and improve the fuel efficiency of heavy-duty vehicles, helping to address the challenges of global climate change and energy security. In February 2015, STEMCO purchased ATDynamics and its TrailerTail® product line, a collapsible boat tail technology that improves the rear aerodynamic shape of CMVs. STEMCO states that motor carriers are evaluating the TrailerTail® rear aerodynamic device to help meet (1) the proposed Phase 2 program standards, and (2) the California Air Resources Board (CARB) Tractor-Trailer

Greenhouse Gas Regulation for dry van and refrigerated van type trailers that has been in effect since 2010.

For newly manufactured trailers, STEMCO states that the TrailerTail® top panel is mounted 1.5 – 3.5 inches below the roof of the trailer in order to comply with the FMVSS No. 108 and FMCSR mounting location requirements for rear identification and clearance lamps. However, STEMCO states:

This inset creates an unaeordynamic gap as airflow transitions from the trailer roof onto the TrailerTail panels and has prevented TrailerTails from delivering the maximum available fuel economy benefit. Wind tunnel flow visualization highlights the contrast in airflow between flush and inset panels and our own internal testing estimates an additional 0.14 delta $C_D A$ (measured drag area) gain and 70 million gallons of annual diesel fuel savings can be achieved simply by installing TrailerTails flush with the trailer roof. In order to evaluate the actual performance of flush mounted TrailerTail aerodynamic systems on actual fleet based fuel economy, it is necessary to request relief from the location requirements for upper identification lamps and rear clearance lamps on commercial van trailers and box trucks. Additionally, these lower clearance and identification lamp locations will pave the way for the commercial launch of collapsible boat tails for roll door box trailers, where the rear upper header is a critical mounting location of boat tail components.

In support of its application, STEMCO states that “The relocation of the rear identification lamps and rear clearance lamps to a lower location on the trailer or box truck are equivalent to the current required lamp location on a flatbed trailer or intermodal chassis, so no safety impact is anticipated.” In addition, according to the application:

STEMCO believes that there will be no safety impact from the relocation of both the rear identification lamps and the rear clearance lamps to a location on an approximate horizontal plane with other rear lamps. NHTSA issued legal interpretations from 1968 until approximately 1999 to trailer manufacturers to allow the lower mounting location for rear identification lamps and rear clearance lamps when there was no “practicable” means of installing the lamps “as close as practicable to the top of the vehicle.” NHTSA subsequently issued an interpretative rule on April 5, 1999, 64 FR 16358, suggesting that trailer manufacturers could no longer mount lamps at the lower location as narrow lamps

were now readily available, and NHTSA would no longer defer to a manufacturer's subjective determination of practicability for locating lamps in the rear upper header location on van trailers and box trucks. However, NHTSA noted in that same Notice that they did not intend to bring enforcement actions based on this interpretive rule immediately. Subsequently, trailer manufacturers continued to manufacture van trailers and box trucks with the rear identification lamps and rear clearance lamps mounted lower on the vehicles on an approximate horizontal plane with the other required lamps."

STEMCO states that without the exemption, it will be unable to verify fleet performance of a higher performance TrailerTail® design that is expected to provide the maximum available fuel economy benefit that may be necessary in order to meet future fuel efficiency requirements.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on STEMCO's application for an exemption from 49 CFR 393.11. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will continue to file relevant information in the public docket that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: June 2, 2016

Larry W. Minor
Associate Administrator for Policy

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